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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/961,234
Filing Date: September 24, 2001
Appellant(s): ROYALL ET AL.

Patrick C. Muldoon (Reg. No. 47,343)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 21, 2009 appealing from the Office action mailed May 18, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

The amendment after final rejection filed on July 17, 2006 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

1. Claims 6 and 12-14 are subject to rejection under 35 U.S.C. § 102(b), as being anticipated by Noel-Levitz (WWW.noellelvitz.com, Newsletter archive, Grading and qualifying prospects, "winter 1998 (part 1) and spring 1998 (part 2). (hereinafter "Noel-Levitz").

2. Claims 6 and 12-14 are subject to rejection under 35 U.S.C. § 103(a) as being unpatentable over Noel-Levitz.

3. Claims 6 and 12-14 are subject to rejection under 35 U.S.C. § 103(a) as being unpatentable over Noel-Levitz in view of Schillewaert et al., (Schillewaert, Niels; Langerak, Fred; Duhamel, Tim. "Non-probability sampling for WWW surveys: a comparison of methods," Journal of the Market Research Society, October 1998.) (hereinafter "Schillewaert").

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|--------------|----------------|--------|
| 2002/0002482 | THOMAS | 9-2002 |
| 6,256,614 B1 | WECKER ET AL., | 7-2001 |
| 5,774,869 | TOADER | 6-1998 |

Noel-Levitz "WWW.noellelvitz.com", Newsletter archive, Grading and qualifying prospects, "winter 1998 (part 1) and spring 1998 (part 2)

Dugan et al., "Using GMAC data to develop an admission marketing plan, v13n2 pp. 24-31, Winter 1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noel-Levitz "WWW.noellevitz.com", Newsletter archive, Grading and qualifying prospects, "winter 1998 (part 1) and spring 1998 (part 2) (hereinafter "Noel-Levitz") and Thomas US Patent Publication No. 20020002482.

As to claims 12, Noel-Levitz discloses a method for generating applications from candidates interested (evaluating the continued interest of candidates) in attending an educational institution.

In particular, Noel-Levitz discloses the claimed "accessing a candidate database containing personal information; profiling the candidates according to criteria established by the educational institution" easily accessible by the admissions counselors and telecounselors who can update individual prospect records with each contact (grading, qualifying and communicating) (page 4-5);

segmenting the profiled candidates into a target group; customizing the partial application with personal information from the database (pages 18-19), making all work together, all the way through the funnel);

compiling the partial applications which have been electronically completed; transmitting the partial applications to the educational institution; providing a personalized acknowledgement of each partial application received; updating the database with information from the partial application (qualifying helps focus resources on those with the greatest propensity to enroll, wherein in the qualifying process the institution rates the level of prospect interest at the prospect, inquiry, applicant and confirmed stages by identifying and targeting students who are genuinely interested, while eliminating those with little or no interest (grading and qualifying inquiries (Noel-Levitz (WWW.noellevitz.com), Newsletter archive, Grading and qualifying prospects, "winter 1998 (part 1) and spring 1998 (part 2) pgs 4-6 and 16-20).

Noel-Levitz does not explicitly provide a web site containing links to a survey and to a partial application; assigning a unique access number ("PIN") to each candidate in the target group; electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site; providing each candidate accessing the web site and indicating a continuing interest in the educational institution with electronic access to the partial application; for each candidate who electronically accesses the partial application.

However, Noel-Levitz continually update the prospective interest profile with each contact (part 1, pages 4-5), wherein the qualifying codes help rate and track the prospect's interest in the institution at various stages of the recruiting process (part 1, pages 18-19).

Since, assigning a unique access number (PIN) to each candidate and electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site, for example a sponsor paid internet connect time allotment to a user while simultaneously collecting survey data for the sponsor by distributing sponsor provided internet access software to an user by providing a PIN number to the user which PIN number entitles the user to log on to the internet via the sponsor provided software and prompting the user to answer a series of queries, with answers forming said survey data as the user logs on to the internet as incentives for targeted individuals, the system allowing said user to browse other internet sites via the sponsor provided software for is old an well known in marketing plan for recruiting potential candidates for many educational institutions, as evidence of Dugan et al., "Using GMAC data to develop an admission marketing plan, v13n2 pp. 24-31, Winter 1997), US Patent no. 6,256,614 (see claims 4 and 12); and US Patent 5,774,869 (see Fig.4, claim 1, 12 and 22).

Noel-Levitz indeed offers each candidate invited to submit a complete application an incentive to submit the full application" (by providing referrals to volunteers and staff, including faculty coaches, and alumni, see part 1, page 5 section 1 "The database -use it or loss its benefits" and part 1, pages 5 and 6 section 2 "getting started with admissions operations research".

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use such a well known PIN distribution to potential candidate into Noel-Levitz system for the advantage of providing a method for profiling an inquiry pool of candidates interested in attending an identified institution of higher learning preliminarily to

targeting candidates from the pool with for enrollment, with the ability to increase system effectiveness by automating the process of collecting prospect contact or update information.

On the other hand, Thomas discloses a method for surveying customer (potential applicants), which includes providing a web site containing links to a survey and to a partial application; assigning a unique access number ("PIN") to each candidate in the target group (paragraph 0048 and 0065); electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site; providing each candidate accessing the web site and indicating a continuing interest in the educational institution with electronic access to the partial application; for each candidate who electronically accesses the partial application (paragraph 0065); and "offering each candidate invited to submit a complete application an incentive to submit the full application" (see [0029]).

Noel-Levitz offers each candidate invited to submit a complete application an incentive to submit the full application (Noel-Levitz (WWW.noellevitz.com), Newsletter archive, Grading and qualifying prospects, "winter 1998 (part 1) and spring 1998 (part 2) pgs 8-9 discloses the claimed "offering each candidate invited to submit a complete application an incentive to submit the full application" (by assuring that all students with financial needs and academic ability receive the same award regardless of when they apply, and making certain the student has the ability to provide accurate early financial aid award estimates 4-6 and 16-20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the cited references by assigning a unique access number ("PIN") to each candidate in the target group as an invitation to access the survey system in the same conventional manner as disclosed by Thomas for the purpose of providing

the surveying candidates who are interested in an educational institution, with ability to increase system effectiveness and efficiency by incorporating Internet technology in the surveying process, thereby increasing the automated reach of the system to customers, while decreasing transmission costs (In re Venner, 262 F.2d 91, 95, 120USPQ 193, 194 (CCPA 1958)). The combination of Noel-Levitz and Thomas arrives to the subject matter as claimed.

As to claim 13, Noel-Levitz discloses a method for generating applications from candidates interested (evaluating the continued interest of candidates) in attending an educational institution.

In particular, Noel-Levitz discloses the claimed “accessing a candidate database containing personal information” *easily accessible by the admissions counselors and telecounselors who can update individual prospect records with each contact (grading, qualifying and communicating) (page 4-5);*

compiling the partial applications which have been electronically completed; transmitting the partial applications to the educational institution; providing a personalized acknowledgement of each partial application received; updating the database with information from the partial application (*qualifying helps focus resources on those with the greatest propensity to enroll, wherein in the qualifying process the institution rates the level of prospect interest at the prospect, inquiry, applicant and confirmed stages by identifying and targeting students who are genuinely interested, while eliminating those with little or no interest (grading and qualifying inquiries (Noel-Levitz (WWW.noellelvitz.com, Newsletter archive, Grading and qualifying prospects, “winter 1998 (part 1) and spring 1998 (part 2) pgs 4-6 and 16-20).*

Noel-Levitz does not explicitly provide a web site containing links to a survey and to a partial application; assigning a unique access number ("PIN") to each candidate in the target group; electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site; providing each candidate accessing the web site and indicating a continuing interest in the educational institution with electronic access to the partial application; for each candidate who electronically accesses the partial application.

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Since, assigning a unique access number (PIN) to each candidate and electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site, for example a sponsor paid internet connect time allotment to a user while simultaneously collecting survey data for the sponsor by distributing sponsor provided internet access software to a user by providing a PIN number to the user which PIN number entitles the user to log on to the internet via the sponsor provided software and prompting the user to answer a series of queries, with answers forming said survey data as the user logs on to the internet as incentives for targeted individuals, the system allowing said user to browse other internet sites via the sponsor provided software for is old an well known in marketing plan for recruiting potential candidates for many educational institutions, as evidence of Dugan et al., "Using GMAC data to develop an admission marketing plan, v13n2 pp. 24-31, Winter 1997), US Patent no. 6,256,614 (see claims 4 and 12); and US Patent 5,774,869 (see Fig.4, claim 1, 12 and 22).

Noel-Levitz indeed offers each candidate invited to submit a complete application an incentive to submit the full application" (by providing referrals to volunteers and staff, including faculty coaches, and alumni, see part 1, page 5 section 1 "The database -use it or loss its benefits" and part 1, pages 5 and 6 section 2 "getting started with admissions operations research".

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use such a well known PIN distribution to potential candidate into Noel-Levitz system for the advantage of providing a method for profiling an inquiry pool of candidates interested in attending an identified institution of higher learning preliminarily to targeting candidates from the pool with for enrollment, with the ability to increase system effectiveness by automating the process of collecting prospect contact or update information.

Thomas, on the other hand, discloses the claimed features:

"assigning a unique access number ("PIN") to each candidate"

[0065] With the notification processing 600 illustrated in FIG. 6, the participants that have been selected to take the survey are notified that a survey exists for them to take. However, in this embodiment, the notification message invites or instructs the participants to access a survey page via the World Wide Web or other network to obtain the survey. For example, a selected participant, after being notified, would receive a survey name, a survey password and/or an identifier and would then use a computer to connect to the survey system 102 to obtain access to the survey. As an example, the selected participants could access the survey page (survey web page) using the network 104 (Internet) and the network server 308 (Web server). Once at the survey page, the survey can be completed on-line or downloaded and then responses returned by either logging back on to the survey page or through e-mail.

(creating a unique access number (PIN) for each candidate in the specified target group to ensure that only one survey response or application is submitted by an individual candidate, see [0065], lines 8-9);

"electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site" (each participant after being notified receives a survey name, a survey password and an identifier to connect to the survey system, see [0065], 8-10);

[0048] Thereafter, the survey questions are electronically distributed 406 to the selected group of registered survey participants. The electronic distribution is performed over a network so that the survey questions can be rapidly supplied to the selected group of registered survey participants. For example, the survey questions can be electronically distributed 406 to the selected group of registered survey participants through electronic mail, file transfer or down load via the network. For example, the electronic distribution 406 can be achieved by attaching executable survey code to an e-mail message that is send to each of the selected group of registered survey participants, or by notifying each of the selected group of registered survey participants by e-mail that they have been selected to participate in a survey and that they are to gain access to the survey page on via the World Wide Web page associated with the survey system 102.

"providing each candidate accessing the web site" (each selected group of registered survey participant would gain access to the survey page on via the www page associated with the survey system, see [0048], lines 14-16); and

[0073] The registration processing 800 begins once an individual initiates 802 registration. Preferably, advertising, incentives and referrals motivate individuals to seek to register to participate in surveys. The incentives may include one or more of money, sweepstakes, drawing, services, etc. After an individual has initiated 802 the registration processing 800, a decision determines whether the individual is attempting to register by connecting to the network server 308 over the network 104. Namely, this would be the situation in which the individual registers over the Internet via a registration page. When the decision block 804 determines that registration is attempted by connecting to the network server 308 over the network 104, then the individual accesses 806 the registration page. Then, while accessing the registration page, the individual completes 808 the registration process. In completing the registration process, the individual completes a registration form. Usually, in this case, the registration can be completed on-line (that is, while connected). Alternatively, the individual could download a executable code that would allowed completion

“indicating a continuing interest in the education with electronic access to the partial application”

(survey participant who is interested in completing a survey application (complete application) is first accesses the registration page and completes a registration form (partial application), [0073], lines 12-17 and using the registered information (partial application) to complete the survey application).

[0029] Potential survey participants register electronically via a computer if they desire to participate in surveys. To motivate computer users to become registered participants, incentives can be provided. Suitable incentives can vary widely. For example, the incentives might include sweepstakes offer, free services, money (credit card debit, savings deposit, money market deposit), coupons, frequent flyer miles, and the like. Once a participant has registered, a file is maintained on the participant in a database. The file includes various information concerning the participant that is useful for selecting participants for surveys as well as categorizing the participant when producing survey results.

Appellant should duly note that potential survey participants first register electronically via a computer if they desired to participate in survey (complete application). Such a registered form is indeed a partial survey application in which potential survey participants have to

complete before completing a survey (complete application). Once the participant has registered, a file is maintained on the participant in a database, wherein the file contains information concerning the participant that is useful for selecting participant for survey application (see [0029]);“indicating a continuing interest in the education with electronic access to the partial application” *(accessing the participant database to select potential participant to participate in survey).*

“updating the database with information from the web based survey” *(the response of the registration form is return to the survey system and saved to a response file, see [0074], lines 15-18 and the file is maintained on the participant in a database, wherein the file contains information concerning the participant that is useful for selecting participant for survey application (see [0029]);*

“providing each candidate who indicates a continuing interest in the educational institution with the opportunity to access a partial application form customized with information from the updated database” *(survey participant who is interested in completing a survey application (complete application) is first accesses the registration page and completes a registration form (partial application), [0073], lines 12-17 and using the registered information (partial application) to complete the survey application);*

“compiling and forwarding partial applications” *(potential survey participants first register electronically via a computer if they desired to participate in survey (complete application), upon completing the registration form, a file is maintained on the participant database, see [0029]);*

“updating the database with information from the partial application” (*response of the registration form is return to the survey system and saved to a response file, see [0074], lines 15-18 and the file is maintained on the participant in a database, the registered information is updated automatically from the survey responses, [see 0077]*);

“acknowledging completion of the partial application” (*the registered participant receives a notification request, see [0065], lines 1-3*);

“providing electronic access through use of the PIN to a full application customized with personal information from the updated database” (*gaining access to the survey application, see [0065]*); and,

“offering each candidate invited to submit a complete application an incentive to submit the full application” (*see [0029]*).

Noel-Levitz offers each candidate invited to submit a complete application an incentive to submit the full application (Noel-Levitz (WWW.noellevitz.com), Newsletter archive, Grading and qualifying prospects, “winter 1998 (part 1) and spring 1998 (part 2) pgs 8-9 discloses the claimed “offering each candidate invited to submit a complete application an incentive to submit the full application” (by assuring that all students with financial needs and academic ability receive the same award regardless of when they apply, and making certain the student has the ability to provide accurate early financial aid award estimates 4-6 and 16-20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the cited references by assigning a unique access number (“PIN”) to each candidate in the target group as an invitation to access the survey system in the same conventional manner as disclosed by Thomas for the purpose of providing

the surveying candidates who are interested in an educational institution, with ability to increase system effectiveness and efficiency by incorporating Internet technology in the surveying process, thereby increasing the automated reach of the system to customers, while decreasing transmission costs (In re Venner, 262 F.2d 91, 95, 120USPQ 193, 194 (CCPA 1958)). The combination of Noel-Levitz and Thomas arrives to the subject matter as claimed.

As to claims 6 and 14, Noel-Levitz and Thomas disclose substantially the invention as claimed. In addition, Noel-Levitz offers each candidate invited to submit a complete application an incentive to submit the full application (Noel-Levitz (WWW.noellevitz.com), Newsletter archive, Grading and qualifying prospects, "winter 1998 (part 1) and spring 1998 (part 2) pgs 8-9; by assuring that all students with financial needs and academic ability receive the same award regardless of when they apply, and making certain the student has the ability to provide accurate early financial aid award estimates 4-6 and 16-20). Providing application incentives for targeted individuals, for example, special scholarship funds or waiver of the application fee and the like is old and well known in marketing plan for recruiting potential candidates for many educational institutions, as evidence of Dugan et al., "Using GMAC data to develop an admission marketing plan, v13n2 pp. 24-31, Winter 1997).

(10) Response to Argument

Argument A

1. Appellant contends that Noel-Levitz does not provide a teaching or motivation for each of the limitations required in the claims,

The examiner has carefully considered the subject matter on appeal, the rejection advanced by the examiner, and the evidence of obviousness relied upon by examiner as support for the rejections. In rejecting the claims under 35 U.S.C. 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness.

The examiner's position with respect to the assertion above is that The examiner finds that Noel-Levitz, on the other hand, discloses a system that uses advanced statistical method to assist colleges and universities with targeting and qualifying prospects, where Noel-Levitz uses the grading and qualifying reports to help targeting admissions travel, selecting telecommunication target groups, segmenting and differentiating direct mail programs, building turnouts for special events such as campus visits, predicting enrollment results in tie to intervene, and providing referrals to volunteers and staff, including faculty coaches, and alumni, see part 1, page 5 section 1 *"The database -use it or loss its benefits"* and part 1, pages 5 and 6 section 2 *"getting started with admissions operations research"*.

The examiner also finds that Noel-Levitz creates a user friendly system to grade and qualify inquiries to get the right message to the right prospects at the right time (see page part 1,

page 4 (grading, qualifying and communicating) and to help focus on financial and human resources on the 20% of prospects that contains the individuals most likely to make up the largest percentage of the entering freshman class, see Part 1, page 6 (The old 80/20 rule lives on).

Whereas, appellant's disclosure discloses a method for electronically surveying prospective candidates for admissions to educational institution and encouraging interest in attending, wherein the survey factors help the educational institution to evaluate the interest level of the candidate and rank the importance of each factor to the candidate over a predetermined spectrum see specification page 9.

The survey result of the present application allows the educational institution to identify interested candidates as well as those candidates who may no longer be interested in the educational institution, to evaluate its recruitment program and strategy and to identify what candidates believe are the educational institution's strengths and weakness, see specification page 10, lines 4-13.

In appellant's disclosure, the educational institution elects a customized web based application by truncating or simplifying the questions, formulating the content of the application to appeal to a specific target group, determining and offering incentives for timely completing and submission of the application or survey, wherein the incentives are specifically tailored the interests of the specific target group of candidates, see page 10, line 14-page 11, line 8. The information provided by the specific group of target group would allow the education institution

to create a full application form and in turn mail directly to the specified candidates to be completed, see specification page 13

By doing that, the present application creates a unique access number (PIN) for each candidate in the specified target group to ensure that only one survey response or application is submitted by an individual candidate, see specification page 11, line 14-19.

From review Noel-Levitz's reference, the examiner has provided prima facie evidence that Noel-Levitz is directed to the same field endeavor as Appellant's claimed invention.

2. Appellant contends that Noel-Levitz does not provide a teaching or motivation for each of the limitations required in the claims,

"assigning a unique access number ("PIN") to each candidate";

"electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site";

"providing each candidate accessing the web site and indicating a continuing interest in the education institution with electronic access to the partial application".

The examiner finds that Noel-Levitz does not explicitly disclose the claimed features:

"assigning a unique access number ("PIN") to each candidate";

"electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site";

"providing each candidate accessing the web site and indicating a continuing interest in the education institution with electronic access to the partial application".

The examiner, however, finds that Noel-Levitz continually updates the prospective interest profile with each contact (part 1, pages 4-5), wherein the qualifying codes help rate and track the prospect's interest in the institution at various stages of the recruiting process (part 1, pages 18-19).

The examiner finds that assigning a unique access number (PIN) to each candidate and electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site, for example a sponsor paid internet connect time allotment to a user while simultaneously collecting survey data for the sponsor by distributing sponsor provided internet access software to an user by providing a PIN number to the user which PIN number entitles the user to log on to the internet via the sponsor provided software and prompting the user to answer a series of queries, with answers forming said survey data as the user logs on to the internet as incentives for targeted individuals, the system allowing said user to browse other internet sites via the sponsor provided software for is old an well known in marketing plan for recruiting potential candidates for many educational institutions, as evidence of Dugan et al., "Using GMAC data to develop an admission marketing plan, v13n2 pp. 24-31, Winter 1997), US Patent no. 6,256,614 (see claims 4 and 12); and US Patent 5,774,869 (see Fig.4, claim 1, 12 and 22).

Additionally, the examiner finds that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use such a well known PIN distribution to potential candidate into Noel-Levitz system for the advantage of providing a method for profiling an inquiry pool of candidates interested in attending an identified institution of higher learning preliminarily to targeting candidates from the pool with for enrollment, with the ability to increase system effectiveness by automating the process of collecting prospect contact or update information.

The examiner finds that Noel-Levitz in combination with Thomas substantially discloses the invention as claimed.

3. Appellant also contends that without teachings for these limitations, a prima facie case of obviousness cannot be made with respect to claim 12.

The examiner has established prima facie case of obviousness by providing substantial evidence as to where each limitation is found in the prior art reference to arrive at the claimed invention.

In rejecting the claims under 35 U.S.C. 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify Noel-Levitz's system or to combine Noel-Levitz and Thomas references to arrive at the claimed invention. Such reason has stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. These showings by the

examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness.

The examiner's position with respect to the assertion above is that Noel-Levitz, on the other hand, discloses a system that uses advanced statistical method to assist colleges and universities with targeting and qualifying prospects, where Noel-Levitz uses the grading and qualifying reports to help targeting admissions travel, selecting telecommunication target groups, segmenting and differentiating direct mail programs, building turnouts for special events such as campus visits, predicting enrollment results in tie to intervene, and providing referrals to volunteers and staff, including faculty coaches, and alumni, see part 1, page 5 section 1 "The database -use it or loss its benefits" and part 1, pages 5 and 6 section 2 "getting started with admissions operations research"; and Noel-Levitz creates a user friendly system to grade and qualify inquiries to get the right message to the right prospects at the right time (see page part 1, page 4 (grading, qualifying and communicating) and to help focus on financial and human resources on the 20% of prospects that contains the individuals most likely to make up the largest percentage of the entering freshman class, see Part 1, page 6 (The old 80/20 rule lives on).

The examiner finds that Noel-Levitz does not explicitly disclose the claimed features:
"assigning a unique access number ("PIN") to each candidate";
"electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site";
"providing each candidate accessing the web site and indicating a continuing interest in the education institution with electronic access to the partial application".

The examiner, however, finds that Noel-Levitz continually updates the prospective interest profile with each contact (part 1, pages 4-5), wherein the qualifying codes help rate and track the prospect's interest in the institution at various stages of the recruiting process (part 1, pages 18-19).

The examiner finds that assigning a unique access number (PIN) to each candidate and electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site, for example a sponsor paid internet connect time allotment to a user while simultaneously collecting survey data for the sponsor by distributing sponsor provided internet access software to an user by providing a PIN number to the user which PIN number entitles the user to log on to the internet via the sponsor provided software and prompting the user to answer a series of queries, with answers forming said survey data as the user logs on to the internet as incentives for targeted individuals, the system allowing said user to browse other internet sites via the sponsor provided software for is old an well known in marketing plan for recruiting potential candidates for many educational institutions, as evidence of Dugan et al., "Using GMAC data to develop an admission marketing plan, v13n2 pp. 24-31, Winter 1997), US Patent no. 6,256,614 (see claims 4 and 12); and US Patent 5,774,869 (see Fig.4, claim 1, 12 and 22).

Additionally, the examiner finds that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use such a well known PIN distribution to potential candidate into Noel-Levitz system for the advantage of providing a method for profiling an inquiry pool of candidates interested in attending an identified institution of higher learning preliminarily to targeting candidates from the pool with for enrollment, with the ability

to increase system effectiveness by automating the process of collecting prospect contact or update information.

On the other hand, Thomas discloses a similar method for surveying customer (potential applicants), which includes providing a web site containing links to a survey and to a partial application; assigning a unique access number ("PIN") to each candidate in the target group (paragraph 0048 and 0065); electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site; providing each candidate accessing the web site and indicating a continuing interest in the educational institution with electronic access to the partial application; for each candidate who electronically accesses the partial application (paragraph 0065); and "offering each candidate invited to submit a complete application an incentive to submit the full application" (see [0029]).

Therefore, the motivation is proper since Noel-Levitz uses advanced statistical method to assist colleges and universities with targeting and qualifying prospects, and Thomas further expands on the teaching suggested by Noel-Levitz (i.e. see the need to combine the references) by assigning a PIN to all the qualified prospects to gain to the survey system to complete the registration form (partial application) as well as to complete the survey application (full application). Thus, the ordinary skilled artisan would have found obvious to look to analogous art in the data processing technology for similar teachings to reinforce the efficiency since the expense involved in recruiting qualified prospects would reduce significantly.

From review of Noel-Levitz and Thomas' references, the examiner has provided prima facie evidence that Noel-Levitz and Thomas are both directed to the same field endeavor similarly to appellant's disclosure, which is directed to a method of electronically surveying

prospective candidates for admissions to educational institution and encouraging interest in attending, wherein the survey factors help the educational institution to evaluate the interest level of the candidate and rank the importance of each factor to the candidate over a predetermined spectrum see specification page 9.

Thus, for the above reasons, it is believed that the rejection under 35 U.S.C. 103 provides substantial evidence to support the rationale statement in the above rejection.

Argument B

4. Appellant contends that Thomas does not provide a teaching for a website containing links to a survey and to a partial application;

The examiner finds Thomas discloses a website containing links to a survey (*gaining access to the survey page on via the World Wide Web associated with the survey system, see [0048], lines 15-16).*

[0048] Thereafter, the survey questions are electronically distributed 406 to the selected group of registered survey participants. The electronic distribution is performed over a network so that the survey questions can be rapidly supplied to the selected group of registered survey participants. For example, the survey questions can be electronically distributed 406 to the selected group of registered survey participants through electronic mail, file transfer or down load via the network. For example, the electronic distribution 406 can be achieved by attaching executable survey code to an e-mail message that is send to each of the selected group of registered survey participants, or by notifying each of the selected group of registered survey participants by e-mail that they have been selected to participate in a survey and that they are to gain access to the survey page on via the World Wide Web page associated with the survey system 102.

“website containing links to a partial application” *(the registered survey participants store a participant database which in turn links to the survey based on the selected participant for the survey application, see [0029] and [0069]);*

[0029] Potential survey participants register electronically via a computer if they desire to participate in surveys. To motivate computer users to become registered participants, incentives can be provided. Suitable incentives can vary widely. For example, the incentives might include sweepstakes offer, free services, money (credit card debit, savings deposit, money market deposit), coupons, frequent flyer miles, and the like. Once a participant has registered, a file is maintained on the participant in a database. The file includes various information concerning the participant that is useful for selecting participants for surveys as well as categorizing the participant when producing survey results.

[0069] Next, a participant is selected ~~704~~ from the selected group of registered survey participants. Then, the e-mail address for the selected participant is obtained ~~706~~. In one embodiment, the e-mail address of the selected participant can be obtained from the participant database ~~208~~.

5. Appellant contends that Thomas does not provide a teaching for providing each candidate accessing the web site and indicating a continuing interest in the educational institution with electronic access to the partial application.

The examiner finds Thomas discloses the claimed “providing each candidate accessing the web site” *(each selected group of registered survey participant would gain access to the survey page on via the www page associated with the survey system, see [0048], lines 14-16);*

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[0048] Thereafter, the survey questions are electronically distributed 406 to the selected group of registered survey participants. The electronic distribution is performed over a network so that the survey questions can be rapidly supplied to the selected group of registered survey participants. For example, the survey questions can be electronically distributed 406 to the selected group of registered survey participants through electronic mail, file transfer or down load via the network. For example, the electronic distribution 406 can be achieved by attaching executable survey code to an e-mail message that is send to each of the selected group of registered survey participants, or by notifying each of the selected group of registered survey participants by e-mail that they have been selected to participate in a survey and that they are to gain access to the survey page on via the World Wide Web page associated with the survey system 102.

and

[0073] The registration processing 800 begins once an individual initiates 802 registration. Preferably, advertising, incentives and referrals motivate individuals to seek to register to participate in surveys. The incentives may include one or more of money, sweepstakes, drawing, services, etc. After an individual has initiated 802 the registration processing 800, a decision determines whether the individual is attempting to register by connecting to the network server 308 over the network 104. Namely, this would be the situation in which the individual registers over the Internet via a registration page. When the decision block 804 determines that registration is attempted by connecting to the network server 308 over the network 104, then the individual accesses 806 the registration page. Then, while accessing the registration page, the individual completes 808 the registration process. In completing the registration process, the individual completes a registration form. Usually, in this case, the registration can be completed on-line (that is, while connected). Alternatively, the individual could download a executable code that would allowed completion

of the registration form and then the individual would reconnect to return the completed registration form to the survey manager 202. The registration form could also be returned by e-mail.

indicating a continuing interest in the educational institution with electronic access to the partial application” *(survey participant who is interested in completing a survey application (complete application) is first accesses the registration page and completes a registration form (partial application), [0073], lines 12-17 and using the registered information (partial application) to complete the survey application).*

[0029] Potential survey participants register electronically via a computer if they desire to participate in surveys. To motivate computer users to become registered participants, incentives can be provided. Suitable incentives can vary widely. For example, the incentives might include sweepstakes offer, free services, money (credit card debit, savings deposit, money market deposit), coupons, frequent flier miles, and the like. Once a participant has registered, a file is maintained on the participant in a database. The file includes various information concerning the participant that is useful for selecting participants for surveys as well as categorizing the participant when producing survey results.

Appellant should duly note that potential survey participants first register electronically via a computer if they desired to participate in survey (complete application). Such a registered form is indeed a partial survey application in which potential survey participants have to complete before completing a survey (complete application). Once the participant has registered, a file is maintained on the participant in a database, wherein the file contains information concerning the participant that is useful for selecting participant for survey application (see [0029]);

6. Appellant contends that Nowhere in Thomas is this limitation taught or even hinted at Thomas does not disclose an application, much less a partial one.

The examiner finds that Thomas discloses an application (survey, see [0030], which is similar to the appellant disclosure page 10, line 14-page 11, line 8)

[0030] When a survey requester places a request for a survey, the survey is generated. Then, based on participant categories identified for the survey, participants are selected for the survey. The survey is then electronically transmitted to the selected survey participants. The selected survey participants then complete the survey and have their responses electronically returned. Survey results are then determined from the responses of the participants. From the survey results, a survey report may be created and transmitted to the survey requester.

The examiner finds Thomas discloses a partial application (registered survey participants completed a registration form, see [0029] and [0073])

[0029] Potential survey participants register electronically via a computer if they desire to participate in surveys. To motivate computer users to become registered participants, incentives can be provided. Suitable incentives can vary widely. For example, the incentives might include sweepstakes offer, free services, money (credit card debit, savings deposit, money market deposit), coupons, frequent flyer miles, and the like. Once a participant has registered, a file is maintained on the participant in a database. The file includes various information concerning the participant that is useful for selecting participants for surveys as well as categorizing the participant when producing survey results.

7. Appellant contends that the combination of Noel-Levitz and Thomas fails to provide a disclosure for each and every limitation.

Based on the analysis provided above, the examiner has showed that combination Noel-Levitz and Thomas arrives the subject matter as claimed. The examiner has provides substantial evidence as to where each limitation found in the cited prior art of references.

The examiner has also showed since Noel-Levitz uses advanced statistical method to assist colleges and universities with targeting and qualifying prospects, and Thomas further expands on the teaching suggested by Noel-Levitz (i.e. see the need to combine the references) by assigning a PIN to all the qualified prospects to gain to the survey system to complete the registration form (partial application) as well as to complete the survey application (full application), the ordinary skilled artisan would have found obvious to look to analogous art in the data processing technology for similar teachings to reinforce the efficiency since the expense involved in recruiting qualified prospects would reduce significantly.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jean M Corrielus/

Primary Examiner, Art Unit 2162

Conferees:

/John Breene/

Supervisory Patent Examiner, Art Unit 2162

/Eddie C. Lee/

Supervisory Patent Examiner, TC 2100